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2 UNITED STATES DISTRICT COURT
3 WESTERN DISTRICT OF WASHINGTON
4 AT TACOMA

5 RICHARD DEAN MERTEN,

6 Plaintiff,

7 v.

8 WELDON MARK GILBERT, PIERCE
9 COUNTY JAIL, and OFFICER GARDNER,

10 Defendants.

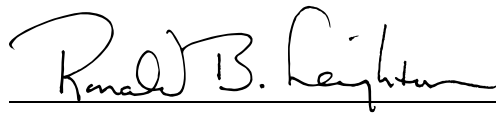
No. C11-5641 RBL/KLS

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

11 The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen
12 L. Strombom, objections to the Report and Recommendation [Dkt. #13], and the remaining
13 record, does hereby find and **ORDER:**

- 14 (1) The Court adopts the Report and Recommendation.
- 15 (2) This action shall proceed on Plaintiff's Eighth Amendment claims against
16 Defendant Officer Gardner only; all other claims are **Dismissed Without
Prejudice** prior to service for failure to state a claim.
- 17 (3) The Clerk is directed to send copies of this Order to Plaintiff, counsel for any
18 Defendants who have appeared, and to the Hon. Karen L. Strombom.

19 **DATED** this 10th day of January, 2012.

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22 RONALD B. LEIGHTON
23 UNITED STATES DISTRICT JUDGE
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